

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

June 18, 2013

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-40835

Conference Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE MARTINEZ-ALVAREZ,

Defendant-Appellant

\_\_\_\_\_  
Appeals from the United States District Court  
for the Southern District of Texas  
USDC No. 2:12-CR-154-1  
\_\_\_\_\_

Before JONES, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Jose Martinez-Alvarez challenges his sentence on the ground that the district court engaged in double counting by using his prior convictions to increase both his offense level and his criminal history score. Martinez-Alvarez raises the issue to preserve it for possible further review but concedes that his argument is foreclosed by *United States v. Calbat*, 266 F.3d 358, 364 (5th Cir. 2001), and *United States v. Box*, 50 F.3d 345, 359 (5th Cir. 1995). See *United States v. Duarte*, 569 F.3d 528, 529-31

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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(5th Cir. 2009). Accordingly, the Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.